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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Summary record of the first part (public)* of the 1222nd meeting
Held at the Palais Wilson, Geneva, on Tuesday, 6 May 2014, at 10 a.m.

Chairperson: Mr. Grossman

Contents

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Initial report of Guinea

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1222/Add.1.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Initial report of Guinea (document without a symbol, distributed in the meeting room; HRI/CORE/1/Add.80/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Guinea took places at the Committee table.*

2. **The Chairperson** welcomed the delegation of Guinea and said that, given that the initial report of Guinea — due 24 years ago — had been received only the day before the meeting, the questions asked at the meeting would be based mainly on information obtained from other sources, including non-governmental organizations (NGOs).

3. **Mr. Diaby** (Guinea) said that Guinea had ratified the Convention on 10 October 1989 during the reign of a military regime that had thereby wished to indicate the State's willingness to begin the process of democratization. His Government wished to thank the Committee for its patience, given that it had not been possible to submit the State's initial report in 2000 as planned, and to express its determination to fulfil its human rights obligations, particularly with respect to the Convention. For the first time in its history, Guinea had established a fully functional interministerial committee on human rights issues. Nevertheless, torture and other cruel, inhuman or degrading treatment or punishment still occurred in the country. After experiencing almost half a century of political and social violence, impunity, corruption and dysfunctional institutions, Guinea faced a situation in which everything remained to be done to lay the sociocultural foundations of a democratic society that respected human rights. The country was now on the path towards democracy, and legislative, institutional and administrative reforms had been initiated to that end. The principle of the prohibition of torture was enshrined in article 6 of the Constitution. Furthermore, Guinea now had case law on combating impunity, in the form of the decision issued by the Conakry Assize Court on 19 December 2012 sentencing to 15 years' imprisonment an officer of the gendarmerie who had been convicted of acts of torture resulting in death. The State authorities were determined to combat the violence and impunity that still plagued the country. In order to do so, they would need the help of the international community, NGOs and society as a whole, without whom it would not be possible to create a new culture and eliminate impunity.

4. **The Chairperson**, speaking as Country Rapporteur, thanked Mr. Diaby for his statement and said that he was impressed by the latter's stated commitment to effecting change. He wished to know whether the Government intended to treat torture as a separate offence in the bill currently under consideration. He would also like to see a copy of the bill in order to determine whether it criminalized attempted torture, orders to commit torture or complicity in torture. It would also be constructive if the Convention were made directly applicable in national law. The delegation should also indicate whether the State party intended to strengthen procedural safeguards with respect to the presumption of innocence, access to a lawyer, access to a doctor, contact with a family member and being brought before a judge within 36 hours. Information on how the courts interpreted the concepts of "physical torture" and "mental torture" as referred to in the current Criminal Code would also be welcome. Some countries, when undergoing major institutional changes, established, in collaboration with all sectors of society, a general human rights plan emphasizing efforts to combat torture. Did Guinea intend to take such action?

5. He also wished to know what measures the State party planned to take to put an end to the excessive use of force. According to information from Amnesty International, during the most recent elections, held in 2013, and during various social protests, repression had

been excessive, acts of torture had been committed and many demonstrators had been killed. The Committee would welcome information on the measures taken to punish the perpetrators of those acts, the code of conduct established for security forces, the training provided to police officers and the equipment issued to anti-riot squads. Following the attack on the presidential residence in July 2011, more than 40 people had allegedly been arrested and — according to NGOs — tortured to extort confessions. The delegation should explain the circumstances surrounding the deaths that had occurred in that connection and should indicate whether measures had been taken to eliminate such practices.

6. He welcomed the appointment of some 300 judges and the establishment of courts and tribunals with a view to creating a true judiciary. He requested further information about the percentage of the national budget allocated to the judiciary and wished to know whether any other measures had been taken to strengthen the system. It would also be interesting to hear more about the provisions ensuring the separation of powers in the country. Lastly, the delegation should provide information on measures taken with regard to juvenile justice and to combating violence against women and, more specifically, female genital mutilation, which was extremely widespread.

7. He asked whether the principle of non-refoulement was enshrined in Guinean law and sufficiently guaranteed. The delegation should also indicate whether Guinea had ever used diplomatic assurances in extradition cases, and whether perpetrators or victims of torture had ever been extradited to other countries. He wished to know whether the State party had a mechanism in place to systematically record evidence in criminal cases, which would facilitate the work of the prosecution when it wished to initiate proceedings in the absence of a complaint. According to information before the Committee, there was only one forensic expert in the whole country. Did the Government plan to train any more forensic experts?

8. **Mr. Gaye** (Country Rapporteur), noting that abuse and violence had persisted since 2010 despite the new Government's determination to put an end to such practices, said that it would be wise to restructure the defence and security forces so that persons implicated in abuses no longer held high-level positions. He requested additional information about the alleged torture of Alhousseine Camara in October 2011, of Mr. Bah, Mr. Keita and Mr. Sow in February 2012, and of Aboubacar Soumah in August 2012, as well as the suspicious death of Alseny Diakité during his detention in November 2011. He asked what measures were taken to guarantee access to a lawyer and a doctor following arrest. The delegation should comment on the allegation that often complaints of torture or ill-treatment inflicted by security forces were left unaddressed and that proceedings were blocked because witnesses and suspects refused to cooperate. Further information on institutional guarantees and mechanisms to safeguard the independence of the judiciary would be welcome. He also wished to know what measures the State party planned to take to better fulfil its obligation to provide redress to victims of torture pursuant to article 14 of the Convention. Noting that pretrial detention often continued well beyond the maximum duration established by law, he asked whether any specific measures were planned to ease overcrowding in prisons and improve conditions of detention. Did the Government intend to allow NGOs to conduct visits in military places of detention as they did in civilian prisons? The delegation should specify the time frame for the completion and adoption of proposed revisions to the Criminal Code, the Code of Criminal Procedure and the Military Code. With regard to transitional justice, the delegation should indicate whether any measures were planned to speed up the work of the provisional national reconciliation commission and to ensure that it came up with specific proposals in the near future. He asked whether the State party planned to incorporate the provisions of article 15 of the Convention in national law or whether judges could directly invoke the Convention as the basis for declaring confessions obtained through torture to be inadmissible. Lastly, the delegation should indicate whether

the Government intended to criminalize cruel, inhuman or degrading treatment in the revised Criminal Code, in accordance with article 16 of the Convention.

9. **Mr. Modvig** said that less frequent use of pretrial detention would help to address the problems of prison overcrowding and the risk of torture. It would also be beneficial to authorize unannounced visits by NGOs to places of deprivation of liberty. The delegation should comment on those proposals, which had the advantage of not requiring additional financial or human resources.

10. **Mr. Domah** asked whether the Government had established a concrete plan for constitutional and institutional reform with a view to strengthening the rule of law, addressing weaknesses in the judicial system and fostering the democratic process. He emphasized that respect for the Convention depended largely on legislative, administrative and judicial measures that should be within the State party's reach despite its limited resources.

11. **Mr. Tugushi** wished to know the status of the investigation into the ill-treatment of some 30 detainees transferred to a military facility in September 2013. Pointing out the shortcomings of the prison system, he asked what measures were planned to address the lack of access to health care, the absence of juvenile prisons, the failure to separate detainees awaiting trial from convicted prisoners and the severe malnutrition and dehydration experienced in Guinean prisons. Welcoming the fact that NGOs were allowed to visit places of deprivation of liberty, he asked the delegation to clarify the mandate of the Ministry of Human Rights in connection with prisons.

12. **Ms. Belmir**, highlighting the general public's lack of trust in the judiciary, said that access to justice should be improved. Noting that past events had shown that actions taken by the Guinean army did not always promote the rule of law, she said that the distribution of tasks among the military forces, the police force and judges should be reviewed and clearly set out so that the law could be applied and respected.

13. **Ms. Gaer** requested further statistical data on criminal justice and the prison system. She asked what follow-up there had been to the observations made by the High Commissioner for Human Rights in her February 2014 report (A/HRC/25/44), which described an almost systematic use of torture and ill-treatment against persons in detention or in police custody. Noting that physical and sexual violence against women was rampant in Guinea, according to figures from the Ministry of Social Affairs, she wished to know how the Government planned to address the problem. The delegation should describe any follow-up to the recommendations made by the International Commission of Inquiry charged with establishing the facts and circumstances surrounding the events of 28 September 2009. Had the persons involved in destroying evidence pertaining to those events been punished? She asked whether any specific steps had been taken to follow up on the recommendations made during the universal periodic review of Guinea, and whether the Government would be willing to allow visits from the Special Rapporteur on the question of torture or the Special Rapporteur on violence against women, for example.

14. **The Chairperson**, speaking as Country Rapporteur, noting the efforts made to prosecute the perpetrators of the human rights violations committed in September 2013, wished to know the status of similar proceedings initiated in 2010. Was the Government cooperating fully with the International Criminal Court in its preliminary investigation into those events? The delegation should provide information on the progress made in the investigation into the inter-ethnic violence that had occurred in July 2013, and should comment on reports that the work of the panel of judges assigned to the case was currently suspended.

The first part (public) of the meeting rose at 12.05 p.m.